

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>JERRY W. KINSCH</b>	)	
Claimant	)	
VS.	)	
	)	
<b>U.S.D. NO. 503</b>	)	Docket No. 248,310
Respondent	)	
AND	)	
	)	
<b>EMPLOYERS MUTUAL CASUALTY COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appeals from an April 14, 2000 preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish.

**ISSUES**

The ALJ found claimant failed to prove his injury arose out of and in the course of employment. Claimant appeals that finding.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes the Order should be affirmed.

Claimant testified that he injured his back while being lowered in the bucket of a crane. According to claimant, the crane came down too fast, struck the ground, and his knees buckled. The ALJ concluded claimant did not establish by a preponderance of the evidence that his injury was caused by being dropped in the bucket. The Board agrees.

The evidence shows that claimant did not report an injury at the time he now claims the injury occurred and did not report injury at work to the initial medical providers. The evidence further shows that he injured himself at home while prying up a carpet tack track. The crane operator has testified there was an incident when the crane came down too fast but nothing of the severity claimant asserts. Finally, claimant has been examined by Dr. Randall L. Hendricks. His report expresses his opinion that claimant was injured from

the incident at home, not an incident at work. Although the record also contains a contrary opinion by Dr. B. L. Hulsman, the Board finds the opinion by Dr. Hendricks to be credible in context with the other evidence in the record.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on April 14, 2000, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 2000.

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BOARD MEMBER

c: Patrick C. Smith, Pittsburg, KS  
Ronald J. Laskowski, Topeka, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director